

REMARKS

Applicant has carefully reviewed the Office Action mailed October 26, 2009, and offers the following remarks to accompany the above amendments.

Status of the Claims

Claims 35, 37-39, 41, 43, 45-50, 52, 53, and 59-62 are currently pending. Claims 1-34, 36, 40, 42, and 54-58 were previously cancelled. Claims 44 and 51 are cancelled herein. Claims 35, 48, 53, and 59 have been amended to recite a feature of Applicant's invention wherein at least one device identifier identifying a second device is displayed on a first device. The at least one device identifier is selected via user input at the first device. This amendment is supported throughout the Specification and Figures including, for example, at paragraph 0106 and Figure 4. Claims 43, 60, and 61 have been amended to recite a similar feature wherein a plurality of device identifiers is displayed on the first device, and one of the plurality of device identifiers is selected via user input at the first device. The selected device identifier identifies a second device. This amendment is also supported by at least paragraph 0106 of the subject application. Claims 59, 60, and 61 have also been amended to emphasize a feature of Applicant's invention wherein the second device is not only directed to either receive or obtain a media item from a content server, but also to play the media item. This amendment is supported throughout the Specification and Figures, such as, for example, at paragraph 0112 of the subject application.

Rejection Under 35 U.S.C. § 103(a) – Szeto and Janik

Claims 35, 37-39, 41, 43-53, and 59-62 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0262204 A1 to Szeto et al. (hereinafter "Szeto") in view of U.S. Patent Application Publication No. 2005/0113946 A9 to Janik (hereinafter "Janik"). Applicant respectfully traverses. When determining whether a claim is obvious, an Examiner must make "a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art." *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, "obviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Moreover, as the Supreme Court recently stated, "*there must be some articulated reasoning with some rational underpinning to*

support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418, 82 U.S.P.Q.2d (BNA) 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)(emphasis added)).

Szeto discloses a combined Instant Messaging (IM) and media player application (IM player) (Szeto, Fig. 3 and para. 0023). The IM player interfaces with an IM server for IM messages and a media server to obtain media (*Id.* at para. 0016). Szeto discloses that a first user may allow the IM server to update a second user’s IM player display with the name of a song being listened to by the first user (*Id.* at para. 0027). The name of the song is preferably listed as a hyperlink on the second user’s IM player (*Ibid.*). The second user may activate or otherwise click on the hyperlink to cause the song to be streamed to the second user’s IM player (*Ibid.*). Notably, Szeto teaches that each user must actively request the song by affirmatively selecting the hyperlink. In direct contrast, each of Applicant’s independent claims requires a first device to direct a second device to obtain or receive a song without user input via the second device. For example, Applicant’s claim 35 recites “*directing, from the first device, the second device to receive a media item identified by the at least one media item identifier from a content server, without user input via the second device.*” Claims 48, 53, and 59-61 contain similar limitations. Szeto fails to teach or suggest a first device directing a second device to obtain or receive a song from a content server without user input via the second device. Rather, Szeto teaches that a user must actively request a song by affirmatively selecting a hyperlink.

Applicant’s claimed invention, as amended, also requires displaying on the first device at least one device identifier identifying a second device, and selecting via user input at the first device the at least one device identifier. For example, Applicant’s claim 35 recites “*displaying on a first device at least one device identifier identifying a second device; [and] selecting, via user input at the first device, the at least one device identifier.*” Claims 48, 53, and 59 contain similar limitations. Nowhere does Szeto teach or suggest the display of at least one device identifier, or the selection of a device identifier that identifies a second device.

Applicant’s claim 60 recites “*displaying on a first device a plurality of device identifiers; selecting, via user input at the first device, one of the plurality of device identifiers, wherein the one of the plurality of device identifiers identifies a second device....*” Nowhere does Szeto teach or suggest the display of a plurality of device identifiers or the selection of one of the plurality of device identifiers. Claim 61 contains a similar limitation.

The Patent Office concedes that Szeto fails to teach or suggest a second device that is directed by a first device to receive or obtain a media item. However, the Patent Office asserts that Janik discloses such features. Applicant respectfully disagrees. Janik discloses an audio converter device that can receive digital audio data and convert digital audio data into analog electrical data (Janik, Abstract). Janik also discloses that a PDA can be used as a system controller by manipulating software on a personal computer through a wireless LAN communication link (Janik, para. 0106). However, nowhere does Janik teach or suggest that the PDA can direct the stereo to receive or obtain a media item identified by a media item identifier from a content server, as recited in each of Applicant's claims 35, 48, 53, and 59-61. Rather, Janik discloses that the PDA may be used to manipulate software on the PC to "manage the audio content that is delivered to the stereo." However, Janik fails to teach or suggest that the PDA directs the PC to receive or obtain a media item from a content server. Janik also fails to teach or suggest that the PDA can direct the stereo in any manner.

Further, Janik fails to teach or suggest that a device identifier can be displayed on the PDA, or that a device identifier may be selected via user input at the PDA, as recited in Applicant's claims 35, 48, 53, and 59. Nor does Janik teach or suggest displaying on the PDA a plurality of device identifiers or selecting one of the plurality of device identifiers, as recited in Applicant's claims 60 and 61.

For at least the foregoing reasons, Applicant submits that neither Szeto nor Janik, either alone or in combination, can render Applicant's claims 35, 48, 53, 59, 60, or 61 obvious, and thus respectfully requests that the rejection be withdrawn.

Claims 37-39, 41, 43, and 45-47 depend directly or indirectly from claim 35; claims 49, 50, and 52 depend directly from claim 48; and claim 62 depends directly from claim 53. As such, since claims 35, 48, and 53 are allowable, claims 37-39, 41, 43, 45-47, 49, 50, 52, and 62 are also allowable. However, Applicant reserves the right to further address the rejection of claims 37-39, 41, 43, 45-47, 49, 50, 52, and 62 in the future, if needed.

Conclusion

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

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By:

A handwritten signature in black ink, appearing to read 'Eric P. Jensen', with a long horizontal flourish extending to the right.

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Date: February 26, 2010
Attorney Docket: 1116-063